

STATE OF MICHIGAN

IN THE 10TH JUDICIAL CIRCUIT-FAMILY DIVISION

MELISSA J. CALICE,
PLAINTIFF,

FILE NO: 12-017215-DZ-4

VS.

FRIEND OF THE COURT ORDER
PURSUANT TO THE CUSTODY
AND/OR PARENTING TIME
RECOMMENDATION

RICHARD A. CALICE, JR.,
DEFENDANT.

AT A SESSION OF SAID COURT HELD IN THE COURTHOUSE IN THE CITY AND COUNTY OF SAGINAW, STATE OF
MICHIGAN, THIS _____ DAY OF _____, 2015.

PRESENT: HONORABLE JAMES T. BORCHARD, CIRCUIT COURT JUDGE

The Court having ordered that the Friend of the Court Office conduct an investigation regarding custody and parenting time, an investigation having been completed and a Recommendation having been filed, a copy of which is attached hereto, and the Court being fully advised in the premises:

IT IS ORDERED THAT the attached is the Order of the Court.

IT IS FURTHER ORDERED that a parent whose custody or parenting time of a child is governed by this order shall not change the legal residence of the child except in compliance with section 11 of the MCL 722.31 to a location that is more than 100 miles from the child's legal residence at the time of the commencement of the action in which the order is issued.

IT IS FURTHER ORDERED that parenting time shall not be exercised in a country that is not a party to the Hague Convention, on the civil aspects of international child abduction, unless the parents provide the Court with written consent to allow a parent to do so.

JAMES T. BORCHARD, CIRCUIT COURT JUDGE

Deputy Clerk

PREPARED BY:

SUSAN K. PRINE (P33530)
FRIEND OF THE COURT

CERTIFICATE OF MAILING

I certify that on this date I mailed with first class postage fully prepaid of the foregoing to the Plaintiff and Defendant at their address as shown by the records of the Friend of the Court and/or their attorneys of record as shown above.

Date of Mailing

Friend of the Court Staff

CALICE –VS CALICE

FILE NO: 12-017215 DZ

1. THE PLAINTIFF AND DEFENDANT SHALL BE GRANTED JOINT LEGAL CUSTODY OF THE TWO MINOR CHILDREN OF THIS CAUSE.

2. THE PLAINTIFF SHALL SEE TO THE DEFENDANT BEING INCLUDED AND IN AGREEMENT WITH ANY MAJOR DECISIONS INVOLVED IN THE CHILDREN'S LIVES.

ANY EVIDENCE OF THE PLAINTIFF BYPASSING THE DEFENDANT'S AGREEMENT IN ANY MAJOR DECISIONS SHOULD BE SUBJECT TO APPROPRIATE SANCTIONS BY THE COURT.

THE PLAINTIFF SHALL SEE TO DEFENDANT HAVING INFORMATION NECESSARY TO ACCESS THE SCHOOLS, PHYSICIANS AND ANY THIRD PARTY PROFESSIONALS WORKING WITH THE CHILDREN.

3. THE DEFENDANT SHALL INTERACT IN A PROFESSIONAL MANNER WITH THOSE INDIVIDUALS WORKING WITH THE MINOR CHILDREN. HE SHALL NOT THREATEN, VIDEO OR AUDIO TAPE, OR SPEAK DISRESPECTFULLY TO THE INDIVIDUALS (TEACHERS, COACHES, THERAPISTS, PHYSICIANS) WHO MAY BE INVOLVED AT ANY JUNCTURE IN THE CHILDREN'S LIVES. IF EVIDENCE EXISTS OF ONGOING DIFFICULT INTERACTION WITH INVOLVED PROFESSIONALS AND/OR THE CHILDREN'S NEEDS BEING COMPROMISED BECAUSE OF HIS LACK OF COOPERATION, REVOCATION OF HIS JOINT LEGAL CUSTODY PRIVILEGES MAY BE CONSIDERED IN THE FUTURE.

THE DEFENDANT SHALL SEE TO PLAINTIFF HAVING INFORMATION NECESSARY TO ANY RELEVANT PROFESSIONALS INVOLVED WITH THE CHILDREN DURING HIS PARENTING TIME PERIODS, AS WELL. HE SHALL, AS WELL INCLUDE HER IN AND REACH AGREEMENT UPON, ANY MAJOR DECISIONS NECESSARY DURING HIS PARENTING TIME PERIODS.

4. THE COURT'S PRIOR ORDER ALLOWING THE MINOR CHILD, ROCCO'S PHYSICIAN(S) TO PRESCRIBE MEDICATIONS FOR ADHD, AND FOR THIS CHILD TO TAKE THESE MEDICATIONS SHALL REMAIN IN FULL FORCE AND EFFECT.

BOTH PARTIES SHALL SEE TO GIVING THE CHILDREN ANY/ALL MEDICATION PRESCRIBED BY THEIR TREATING PHYSICIAN.

IN EITHER PARENT'S ABSENCE AT AN AGREED UPON MAJOR MEDICAL APPOINTMENT/PROCEDURE, THE ABSENT PARENT SHALL PROVIDE THE OTHER PARENT WRITTEN DOCUMENTATION FOR THE TREATING PHYSICIANS, FOR PURPOSES OF AGREEING UPON A COURSE OF TREATMENT IN THEIR ABSENCE.

RESPECTFULLY SUBMITTED,



JILL HOGENSON, LMSW, ACSW, CUSTODY SPECIALIST

6/3/2015

STATE OF MICHIGAN

IN THE 10TH JUDICIAL CIRCUIT COURT-FAMILY DIVISION

MELISSA J. CALICE,
Plaintiff,

File No. 12-017215-DZ-4

NOTICE OF PRESENTMENT

VS.

RICHARD A. CALICE, JR.,
Defendant.

TO: COURT CLERK

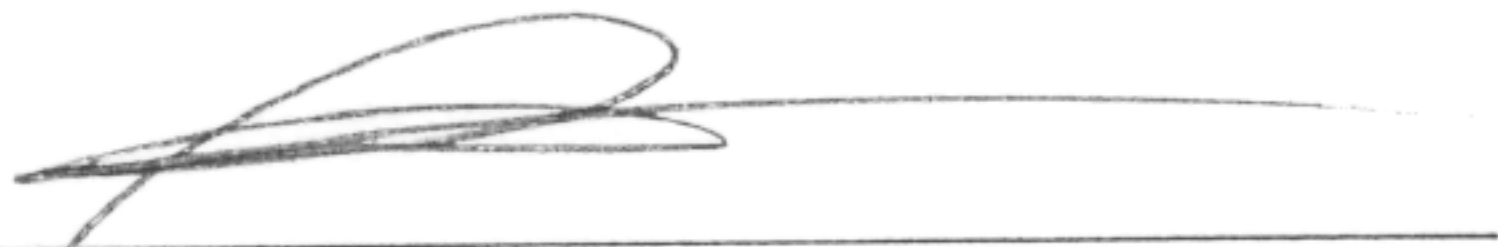
TIMOTHY R. McLEOD
ATTORNEY AT LAW
P. O. BOX 6055
SAGINAW, MI 48608

NOTICE IS HEREBY GIVEN that the attached proposed Order has been presented to the Circuit Court for entry. The Court will sign the Order unless written objections are made by a party within 21 days and filed with the Court Clerk, 111 South Michigan Avenue, Saginaw, MI 48602. THE PARTY FILING THE OBJECTIONS TO THE ENTRY OF THE PROPOSED ORDER MUST COMPLY WITH MCR 2.602(B) by:

1. STATING SPECIFICALLY THE INACCURACY OR THE OMISSION TO THE PROPOSED ORDER.
2. SERVING THE OBJECTION ON THE OPPOSING PARTY, THE OPPOSING PARTY'S ATTORNEY, AND THE SAGINAW COUNTY FRIEND OF THE COURT.
3. SERVING A NOTICE OF HEARING ON THE OPPOSING PARTY, THE OPPOSING PARTY'S ATTORNEY, AND THE SAGINAW COUNTY FRIEND OF THE COURT.
4. SERVING AN ALTERNATE PROPOSED ORDER (OR A STATEMENT SETTING OUT DETAILED REASONS WHY AN ALTERNATE ORDER IS NOT APPROPRIATE AT THIS TIME) ON THE OPPOSING PARTY, THE OPPOSING PARTY'S ATTORNEY, AND THE SAGINAW COUNTY FRIEND OF THE COURT.

Failure to comply with the court rule may cause any objections to be disregarded.

SAGINAW COUNTY FRIEND OF THE COURT


SUSAN K. PRINE (P33530)
FRIEND OF THE COURT

PROOF OF SERVICE

I certify that I sent by first class mail with postage fully prepaid thereon, a copy of the foregoing to parties and attorneys of record at their addresses as shown by the records of the Friend of the Court.

7-20-15
Date


FRIEND OF THE COURT STAFF

STATE OF MICHIGAN

IN THE 10TH JUDICIAL CIRCUIT-FAMILY DIVISION

MELISSA J. CALICE,
PLAINTIFF,

FILE NO: 12-017215-DZ-4

VS.

REPORT AND RECOMMENDATION
OF THE FRIEND OF THE COURT
RE: LEGAL CUSTODY

RICHARD A. CALICE, JR.
DEFENDANT.

MINOR CHILDREN OF THIS CAUSE:

ROCCO
AMELIA

BORN: 10-27-06
BORN: 04-25-08

RECOMMENDATION:

Attached is the Recommendation of Jill Hogenson, Custody Specialist. This Recommendation has been completed for the Saginaw County Friend of the Court pursuant to a contractual agreement.

NOTICE OF EXPERT WITNESS FEE

If either party calls Jill Hogenson to testify at a Referee or Circuit Court hearing, she must be served with a subpoena pursuant to MCR 2.506. That party who subpoenas Ms. Hogenson is responsible for paying her witness fee. The Friend of the Court will not accept service on her behalf from parties who are represented but will inform attorneys of Jill Hogenson's mailing address and a daytime phone number where she can be reached. However, the Friend of the Court will accept service of subpoenas on Ms. Hogenson's behalf from parties who are not represented by counsel. If the Court is requiring Ms. Hogenson's appearance and testimony, the parties shall equally be responsible for payment of her witness fee. It is expected that Ms. Hogenson's witness fee will be paid in a timely fashion to avoid Court action in enforcing this policy. (Thank you in advance for your anticipated cooperation).

Respectfully submitted,



SUSAN K. PRINE (P33530)
FRIEND OF THE COURT

SKP/mf

Dated: 7-20, 2015.

cc: TIMOTHY R. McLEOD, ATTORNEY FOR PLAINTIFF

STATE OF MICHIGAN
IN THE 10TH JUDICIAL CIRCUIT-FAMILY DIVISION

MELISSA J. CALICE,

PLAINTIFF

-VS-

FILE NO: 12-017215 DZ

RICHARD A. CALICE, JR.,

DEFENDANT

MINOR CHILDREN OF THIS CAUSE:

<u>ROCCO</u>	<u>BORN: 10-27-06</u>	<u>AGE: 8</u>
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<u>AMELIA</u>	<u>BORN: 04-25-08</u>	<u>AGE: 6</u>
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REASON FOR REFERRAL:

This case was referred to Jill Hogenson, LMSW, ACSW, for a report and recommendation on the issue of joint legal custody.

INTERVIEW:

The parties, Melissa Calice and Richard Calice, were interviewed together on January 20, 2015.

A wealth of documentation presented as a part of this investigation was evaluated and considered. As well, this writer had the benefit of reviewing Dr. Ken Bertram's psychological evaluation of Mr. Calice.

Many releases of information were obtained. Contact was made with Detective Mindy Worden, with Saginaw County Children's Protective Services, Jim Bailey, Principal, Hemmeter Elementary School, Dr. Sandra Phander, Ph.D., Dr. Khan and Office Staff (Nicole) from Dr. Jaffernay's office.

SUMMARY:

FINDINGS PURSUANT TO THE CHILD CUSTODY ACT, MSA 25.312 (3) AS AMENDED NOVEMBER 29, 1993:

SECTION 3. AS USED IN THE ACT, "BEST INTERESTS OF THE CHILD" MEANS THE SUM TOTAL OF THE FOLLOWING FACTORS TO BE CONSIDERED, EVALUATED AND DETERMINED BY THE COURT:

A) THE LOVE, AFFECTION AND OTHER EMOTIONAL TIES EXISTING BETWEEN THE PARTIES INVOLVED AND THE CHILD.

The Plaintiff and Defendant's love for their children is without question or concern. The evidence, past and present, suggests these parties to have been successful in developing strong ties with their children.

Rocco and Amelia are presumed benefited by the strong connections in place between themselves and both of their parents.

The parties are found equal.

B) THE CAPACITY AND DISPOSITION OF THE PARTIES INVOLVED TO PROVIDE LOVE, AFFECTION AND GUIDANCE AND THE CONTINUING OF THE EDUCATING AND RAISING OF THE CHILD IN HIS OR HER RELIGION OR CREED IF ANY.

Both Plaintiff and Defendant are viewed as nurturing parental figures. There is no indication that their love, devotion and commitment are not consistently displayed.

Regarding the parties' abilities to provide guidance to their children, Mr. and Ms. Calice are both viewed as being capable and involved in seeing to guiding and directing their children's lives. Although there was no indication of concern related to either parent's capabilities in this area at the time of this writer's recommendation in 2013, at present, both parents voice concern about the other's abilities. Ms. Calice suggests the Defendant Father to be, at the minimum, aggressive in nature in the realm of discipline. She has spoken to Rocco about if he is 'hit' to tell her. She reported belief the children have punished inappropriately by Mr. Calice, reporting Rocco has said he has been 'choked' by his Dad, and further noting the children have been "put in time out" if they "miss her," with Amelia being told she "doesn't need to talk to me because I make her cry."

Ms. Calice does not believe the Defendant Father recognizes issues with the children when they exist, citing her concerns about Rocco's attention deficit symptoms being identified by everyone but Mr. Calice. She indicates his resistance to medication has previously hindered Rocco's capacity to be successful in school. In general, Ms. Calice views the Defendant's agenda and need for 'power' to impair his capacity to focus upon or make decisions which are in the children's interests. She questions Mr. Calice's ability to provide adequate guidance and direction for the children when he has issues both identifying concerns and then responding to those in a proper fashion.

Mr. Calice reports genuine concern about the children's safety in the community of Saginaw. He views their needs being compromised, and sees the children as jeopardized by not only the parenting in place, but the environment surrounding them here. Mr. Calice believes Ms. Calice, as well as the systems in place in Saginaw, have 'covered' up concern relative to Rocco having been sexually abused and bullied in the school setting. Consultation with the school and CPS have not found these allegations credible. The Court is aware that Rocco had an incident with a child at school; however, there is no evidence of said incident being abusive or intentionally inappropriate in nature. Mr. Calice voices concern with Rocco's safety and that of his sister, Amelia, in the school setting.

Mr. Calice has concern with the Plaintiff Mother's methodology and parenting techniques. He has ongoing concern about Rocco being given medication to assist with his focusing in school, and the ramifications for his future as a result. He believes Ms. Calice's own background and mental health issues impair her from being objective and capable of directing their children's lives along appropriate paths.

Both Plaintiff and Defendant view themselves as capable parental figures who prioritize their children's needs and well-being. Indeed, this is believed accurate. The information available does not indicate concern relative to either the Plaintiff or Defendant's capacity to interact, nurture and guide and

manage their children's behavior. Their differences are certain; though no evidence exists which would warrant concern with the children's safety or functioning in either parent's home or care.

There is no indication the children's religious education is an issue in this case.

The parties will be judged equally.

C) THE CAPACITY AND DISPOSITION OF THE PARTIES INVOLVED TO PROVIDE FOOD, CLOTHING, MEDICAL CARE AND OTHER REMEDIAL CARE RECOGNIZED AND PERMITTED UNDER THE LAWS OF THIS STATE IN PLACE OF MEDICAL CARE AND OTHER REMEDIAL NEEDS.

Both Plaintiff and Defendant remain involved in their careers, and are able providers for their children. There is no evidence which exists to suggest concern relative to the children's basic needs not being met in either parent's home or care.

Regarding the children's needs for medical care, ongoing concern exists between the parents. The Court has ordered the minor child, Rocco's, attending physician is allowed to prescribe medication for ADHD for this child, and he is allowed to take the medications, despite the joint legal custody provisions. Mr. Calice has maintained concern about Rocco doing so. Ms. Calice is of opinion the medication was sought out due to need, and has been helpful to his success in the school setting. Rocco, indeed, has made a great deal of progress in the school setting this year. The information suggests him succeeding, with no concern evident relative to his basic or medical needs being inappropriately or neglectfully addressed. The Court's ruling on medication appears to remain appropriate. The medication Rocco is on is not a controlled substance.

Consultation with Dr. Jaffernay's (psychiatrist's) office indicated their desire both parties be present, if joint legal custody is awarded, to allow for a treatment plan to be agreed upon. If both parties are not able to be present, Mr. Calice could provide documentation that he is in agreement with the child being seen and a treatment plan being agreed upon between the Doctor and Ms. Calice. Mr. Calice would be free to make an appointment and/or attend the appointments with the physician; however, the doctor cannot go 'back and forth' and attempt to negotiate treatment plans between disagreeing parents.

This writer will note the parties have historically had differences of opinion about medication. This writer's report and recommendation in 2013 indicates Mr. Calice then describing himself as "more reserved on medication – we have a difference in philosophy." Despite this known difference in philosophy historically, the parties agreed to an order reflecting joint legal custody on 11/8/2013. There is nothing to suggest a change in circumstances at present.

Mr. Calice maintains position that Rocco's difficulty focusing is a "tell tale sign" of abuse, which he does not believe was explored by the professionals involved. He is of opinion, in fact, that Rocco's behavior surfaced "after" he was "sexually abused" at school, and noted the ADHD to be a "disguising diagnosis." Mr. Calice is of opinion the Plaintiff Mother has "concealed" the abuse, as it "helps her" in these proceedings. He noted CPS to be investigating the sexual abuse at the time of investigation, but stated "I'm not optimistic about it." Information received from Saginaw County Children's Protective Services indicated a referral was received on 1/22/14 and it is closed. It was stated that "It does not appear that it was assigned."

This writer finds both parents to be intelligent, competent parental figures. Both will do their very best to address and manage the realm of the children's needs. Their philosophies about parenting may differ; however, there is nothing that would suggest these children will go without nor that their needs would not be addressed, albeit it differently, by either parent. Plaintiff and Defendant are both believed desirous and intentional concerning the children being well taken care of, though their paths to this end will not be similar.

The parties are found equal. There is no evidence that either parent will not/has not provided or seen to the realm of the children's needs as herein described.

D) THE LENGTH OF TIME THE CHILD HAS LIVED IN A STABLE, SATISFACTORY ENVIRONMENT AND THE DESIRABILITY OF MAINTAINING CONTINUITY.

The Plaintiff Mother continues to reside in the Saginaw vicinity, and the Defendant, in Maryland. There are not issues relative to the stability of either parent's home setting for the children. Both Mother and Father will see to a circumstance that is beneficial and stable for the children in their respective residences.

The issue of physical custody was not referred. There is nothing that questions the environment or stability of the homes and environments either parent offers.

E) THE PERMANENCE, AS A FAMILY UNIT, OF THE EXISTING OR PROPOSED CUSTODIAL HOME OR HOMES.

Neither Plaintiff nor Defendant are significantly involved. Neither have children other than Rocco and Amelia, and do not report they are expecting any children at the present time.

The parties have maintained stability as the head of the family units in place for the children in their home setting(s). There is nothing to suggest concern relative to the permanence in family unit that either parent offers.

The parties are found equal.

F) THE MORAL FITNESS OF THE PARTIES INVOLVED.

This writer does not find concerns with the individual morals of either parent.

Plaintiff and Defendant are judged equal.

G) THE MENTAL AND PHYSICAL HEALTH OF THE PARTIES INVOLVED.

Mr. Calice suggests concern relative to Ms. Calice's mental health. This writer's 2013 reports speaks to her health and medication taken. There is no evidence that her physical or emotional health represent interfere with her ability to parent these children.

Ms. Calice views the Plaintiff as being on the "spectrum" of "autism" as well as "narcissistic" in behavior. She stated "He doesn't look at anyone else's perspective but his own – it is the world according to him." The Court ordered Mr. Calice complete a psychological evaluation, which was done. The results from Psychologist, Dr. Ken Bertram, were reviewed. The results were viewed by Dr. Bertram as "valid." He noted Mr. Calice did not attempt to "conceal who he is or the way that he is."

Dr. Bertram finds the Defendant as “best understood as being avoidant” going on to state his stance is “protective in character.” He finds him as having a “relative inward focus.” He indicates Mr. Calice will “casually disregard” the “wants and wishes” of those he relates closely to, and may “ignore their views and opinions” or “maneuver or take relative advantage of them” as well as “may demonstrate what appears to them to be a callous attitude toward them.” He notes when feeling “threatened or provoked” by others, Mr. Calice “may develop a vengeful attitude” and others may see him as “being excessively hard on them.”

Mr. Calice will “rationalize” his behavior, with Dr. Bertram also utilizing the adjectives of ‘persistent’, ‘dogged’ and sometimes even ‘relentless’ and ‘deluded’ in terms of how others may view Mr. Calice. Despite these, however, Dr. Bertram indicates Mr. Calice is “seen as being free of significant and disabling psychopathology.” His “sense of reality” is “intact.” There is no evidence of delusions, though he notes others may feel he appears deluded” at times. He reports Mr. Calice’s behavior is “volitional and reality-directed” and notes he is in “good control of himself and his actions.” Dr. Bertram indicates that “neither the clinical interview nor the results of the standardized testing suggest that this man presents or represents any danger to others or to the community,” though he notes as a “reasonable disclaimer” that “aggressive and destructive behavior are exceedingly difficult to predict.” Dr. Bertram indicated an encouragement of Mr. Calice exploring some of the issues detailed in the psychological in the “context of a meaningful counseling/psychotherapy relationship.”

The evidence does not indicate that either the mental or physical health of either parent to be a concern relative to their daily functioning or parenting.

The parties will be found equal.

H) THE HOME, SCHOOL AND COMMUNITY RECORD OF THE CHILD.

The minor children, Rocco and Amelia, remain students at Hemmeter Elementary School. Pursuant to contact with the school, both children are working above grade level at present and doing well. The teacher’s contacts have been with the children’s Mother.

The children have been in extracurricular activities as signed up by their Mother. There is no indication Rocco and/or Amelia are not functioning well, nor that concerns exist about their performance or demeanor in any setting.

Though Mr. Calice voices concern about the children in the Saginaw vicinity, the information suggests their needs being met, and all areas of their life being addressed. There is no concern that either child would not perform well, with either parent, or that either Mr. or Ms. Calice would not see to the very best of school and collateral circumstances for them.

Ms. Calice has been the parent seeing to the realm of the children’s needs. Mr. Calice’s involvement with the school, and those around the children has traditionally been more peripheral. Contact when he has identified issues has occurred.

Plaintiff is at advantage.

I) THE REASONABLE PREFERENCE OF THE CHILD IF THE COURT CONSIDERS THE CHILD OF SUFFICIENT AGE TO EXPRESS A PREFERENCE.

The minor children were not interviewed as a part of this investigation, related to a recommendation on joint legal custody.

J) THE WILLINGNESS AND ABILITY OF THE PARTIES INVOLVED TO FACILITATE AND ENCOURAGE A CLOSE AND CONTINUING PARENT-CHILD RELATIONSHIP BETWEEN THE CHILD AND THE OTHER PARENT OR THE CHILD AND THE PARENTS.

Neither parent has the ability to encourage the children's relationship with the other at the present time. Neither parent is likely to sincerely or consistently be able to nurture or support the other parent's role, position or relationship with the children.

Neither parent trusts the other, and views the other as a threat and detriment to the children's overall well-being. This writer notes the unfortunate decline of the parties' relationship, since the 2013 report and recommendation. In 2013, there were not significant concerns, voiced by either parent, in reference to the other's parenting of the children. The issues appeared to be these parents deciding how to share their children, given their home settings being apart. There appeared to be a relative level of respect, despite their differences, as it related to the relationship both had with the children. As well, there was a sense of the children benefitting by the parenting and nurturing of both. At present, this is not the case. There is no sense of respect or support, one parent towards the other. Both would prefer they neither had to deal with the other, nor as well, that the children did not.

There is grave concern relative to the children being able to tolerate the conflict, disrespect and mistrust of these parents. As they grow, the necessity of 'choice' and 'loyalty' will be likely, as it relates to the children's relationship with their parents, as concern exists they will unfortunately not be able to manage healthy, positive ties to both, simultaneously. The level of stress that is the predicted reality for these children, living between parents as intentioned as these upon discluding and disrespecting the other, will be significant and destructive to the children's security and emotional well-being.

Neither parent is at advantage.

K) DOMESTIC VIOLENCE, REGARDLESS OF WHETHER THE VIOLENCE WAS DIRECTED AGAINST OR WITNESSED BY THE CHILD.

Ms. Calice cites herself having been a victim of emotional and verbal abuse by Mr. Calice during the course of their marriage. She continues to see any interaction or communication with Mr. Calice as an opportunity for him to harass and demean her as an individual and a parent.

Mr. Calice denies himself abusive in nature. Dr. Bertram's testing would suggest the Defendant as having little ability to see how his interaction effects those around him. While the testing suggests he is likely viewed as being 'cruel' it also notes Mr. Calice to be have poor insight, being unaware of his behavior on the lives of those around him.

A concern, however, in this case is that, by virtue of their voracious conflict and their staunch positions, these parties appear to be victimizing their children. Ms. Calice believes the children are not safe with their Father, and Mr. Calice views the children at risk in Saginaw. There was no evidence of the children having fears in reference to their parents; rather the, fears are those of the parents, for their children. Validating the children's resilience and highlighting their strength and coping is a better strategy than instructing fears.

Neither parent will be at advantage over the other.

L) ANY OTHER FACTOR CONSIDERED BY THE COURT TO BE RELEVANT TO A PARTICULAR CHILD CUSTODY DISPUTE.

The issue referred is joint legal custody. Ms. Calice suggests herself unable to communicate with the Defendant. She notes, as well, Mr. Calice unwilling to communicate to any extent; though noting when he does communicate, it is very difficult in nature. Ms. Calice believes the Defendant to be intentional in his opposition towards her and feels that maintaining joint legal custody will continue to allow him to hinder decisions that impact the children.

Mr. Calice reports the prior 'award' of joint legal custody was, in essence, a status, rather than the reality of a parenting arrangement. He does not believe the Court enforced the order; and as a result, Ms. Calice has been free to parent as she so desires without his input or voice in the decisions in their children's lives. Mr. Calice is not certain that any order maintaining joint legal custody will make a solid difference in Rocco and Amelia's lives – especially as they continue to be maintained in Saginaw. He does not believe that, here, their interests are acknowledged or protected by their Mother or the systems in place. This being said, however, Mr. Calice does believe both in theory and practicality, that it remains beneficial and is warranted, that he have a 'say so' on the major decisions in the children's lives.

Though Ms. Calice is of opinion that parenting will be smoother if she does not have to engage in conflict when a decision needs to be made about the children, this writer is not convinced of this likelihood. Rather, whichever is the verdict, the evidence suggests ongoing conflict between these parties, which is, in fact, the issue of most concern in this case.

Dr. Bertram's testing suggests the benefit of "as complete openness as possible by the court and attendant processes" going on to stated "the same is applicable, where Tony's estranged wife is concerned as regards decisions and other matters of relevance in the lives of Rocco and Amelia." He notes the Defendant's "anxiety" to increase "in the absence of information and understanding." He reported, as well, the Defendant's pressure for information will increase dramatically when he feels anxious." As a result, whether Mr. Calice has a determined 'say so' or not, will not be the deciding factor in a decrease of conflict in this case. Rather, issues between the parties will be likely, from custody issues to CPS involvement, etc.. If Ms. Calice is not required to reach agreement with the Defendant and information is not forthcoming, Mr. Calice will be left to utilize the systems (Court, CPS, etc) to gain information about the children. The likelihood of continued, unnecessary and exaggerated chaos, rather than resolve, by eliminating joint legal custody, is judged significant.

This writer believes the information to indicate neither parent is without responsibility in the level to which their conflict has arisen. The depositions read, and the Court order (9/10/14) reviewed indicate clearly that Ms. Calice intentionally chose not to include Mr. Calice in major decisions (counseling, evaluation, treatment) of Rocco. While she may have 'informed' him, she did not include him; this being a notable difference. Plaintiff Mother believes Defendant objects to her viewpoint simply because it is her viewpoint, rather than assessing any validity to any of her positions. She believes his motivation is to have 'power' over herself and the children.

This writer believes Ms. Calice operates now, as she did during the marriage, in terms of being in the primary care giving role, and making decisions on her own; it being natural for her to do so. Plain and simple, however, the Plaintiff does not wish to approach Defendant nor to be in a position where agreement is necessary, as it will hinder the process and the children's needs being met, as well as be more difficult in practice.

This being said, this Mother is an intelligent individual, and is believed to have intentionally bypassed Mr. Calice, for ease of circumstance and opinion her judgment was at advantage. It will be necessary, if joint legal custody is maintained, for the Plaintiff to transition to a situation, not where she is *asking* for 'permission' from the Defendant in decisions, but where she works to facilitate and obtain agreement. Preemptively 'asking' Mr. Calice his opinion about how *they* should proceed or 'asking' him to do some leg work on an issue, are techniques likely to facilitate more cooperative parenting, and be more successful in engaging Mr. Calice.

Mr. Calice's responsibility in the process is to be *appropriately involved*. The Defendant is convinced that the children's residence in Saginaw is a threat to their well-being; as a result, he has tended toward disagreement with not only Ms. Calice, but anyone in the vicinity who is involved. His presumption is that he is disregarded, and that the Plaintiff works in conjunction with the system, having her agenda forwarded.

This writer believes Mr. Calice to be genuine in his concern for his children. There is no evidence otherwise. However, he is not able to get past his concern about the manner in which Ms. Calice was allowed to relocate with the children (said issue which was not emphasized in 2013, as it is currently). Mr. Calice views the decision to allow Ms. Calice to be in Michigan as at the crux of the remainder of issues with his access to the children, and their subsequent safety and well-being. He is convinced Rocco's needs are compromised in his school setting (due to reported bullying and alleged sexual abuse), as well as compromised by virtue of the Court allowing their son to be medicated for a diagnosis Mr. Calice believes is questionable at best. Defendant does not believe the children will be protected nor be able to reach their potential in the current home and community that has been determined. It is this frustration that appears to be fueling Mr. Calice's concerns and agenda. That the Defendant has concern relative to the children's ongoing placement here with their Mother, in Saginaw, is an issue this writer has not been asked at this time to evaluate or make recommendations upon.

This writer will note the concerns about a child being medicated to be this writer's most *frequent* referral in the area of joint legal custody. So that, Mr. Calice having concerns and a difference of opinion about the issue of medication being given his son is not unusual at all. In and of itself, the existence of this dispute should not preclude the ability to retain a 'say so' in the major decisions involving the children. As well, and necessary to consider is it being clear the Plaintiff had a part in the dysfunction of the joint parenting arrangement, as she has blatantly and repeatedly unilaterally made decisions.

Both parties are in need of demonstrating their capabilities to do the 'next right thing' as it relates to parenting their children. Ms. Calice indeed has responsibility to *include* Mr. Calice; this communicates her respect of his position as the children's Father, and respect of the responsibilities given her by the Court. Mr. Calice has responsibility to work *with*, not against, those trying to help his children. This man's behavior not only towards Ms. Calice, but towards others who have been involved, has been confrontational and difficult. His demeanor has caused some to refuse services, and others to be on the

defensive, and experience stress in dealing with him. Mr. Calice's efforts to 'protect' his children have been alienating at best; with his capacity to act as an advocate for his children being compromised by how he presents himself at times. This writer believes that *if* the children were in Maryland, and Ms. Calice came to the vicinity and interacted similarly with involved professionals, as Mr. Calice has, the Defendant himself would not appreciate her demeanor, nor find it helpful for their children.

This writer believes Mr. Calice needs to be held to the standard of acting professionally as he relates to those who work with his children. Treating the interactions those who are involved with his children in a 'business' fashion is an approach more well received and likely more effective. To date, this writer does not find Mr. Calice as having been a solid 'advocate' for his child, given his abrasive demeanor towards involved professionals. While Ms. Calice certainly needs to step 'back' from pattern of as the historical functioning as the sole or 'lead' parental figure, Mr. Calice needs to step 'up' to begin to interact as the intelligent, capable parent he is. The Defendant's demeanor has unfortunately resulted in his input being a *concern*, rather than an earnest consideration. He cannot provide the 'protection' necessary to his children, if he does not present himself in a better light.

This writer believes both of these parents 'know better.' They have become entangled in conflict which has consumed them and trickled down to effect their children. Their issues and concerns are not unlike other cases seen; however, their conflict has escalated to the extent that it appears more pronounced. *At the present time* this writer believes both parents need to be held accountable to do what they know they need to and are expected to do. Ms. Calice like it or not, needs to *include* Mr. Calice. The manner in which she approaches him is believed key, and is essential to how he responds to her. Telling him what she is going to do, has done, or what needs to be done will not be successful. Her good faith effort in showing respect and acknowledging his position in the process needs to be demonstrated. Mr. Calice needs to be open and willing to, in good faith, maintain appropriate involvement with those working with Rocco, and treat those respectfully who surround his son – doing so, if for no *other* reason, than his child(ren) would appreciate him working *with* and treating those around them well.

This writer does not find enough evidence to exist that, at this juncture, joint legal custody should be dissolved on a permanent basis. The conflicts which the parties have had are neither judged unusual, a change of circumstances from that which was in place prior to their agreement for joint legal custody, nor a pattern sufficient to warrant revocation. In a joint legal custody arrangement, nor any working relationship, it is unrealistic to suggest the parties will *consistently* have agreement and peace. *Some* conflict is inevitable. Without it, the opportunity to address issues that need to be addressed is limited. Finding a way to address conflict is the key. The parties are encouraged to make necessary changes as discussed, as both are believed responsible to date.

The evidence is neither clear or convincing that by dissolving joint legal custody, that conflict between the parties will dissolve, as is the suggestion. In fact, without Defendant having information and the ability to participate with his children, excessive conflict is predicted. Furthermore, given the length of parenting time both parents have and the appreciable distance between their homes, it is believed appropriate and responsible that each have a 'say so' and be able to act so as to assure the children's needs are met during their respective periods.

There is no evidence to indicate Mr. Calice to be a threat. The psychological does not, as well, bear out concern with Defendant's involvement with decisions nor in contact with the minor children. There is no evidence of Mr. Calice's influence nor input being detrimental to the children.

The presumption appears to be it yet logical, reasonable and appropriate that Mr. Calice has a 'say so' in the major decisions in his children's lives. A recommendation for reinstatement of joint legal custody is believed appropriate.

Recommendations will follow.

CALICE –VS CALICE

FILE NO: 12-017215 DZ

1. THE PLAINTIFF AND DEFENDANT SHALL BE GRANTED JOINT LEGAL CUSTODY OF THE TWO MINOR CHILDREN OF THIS CAUSE.

2. THE PLAINTIFF SHALL SEE TO THE DEFENDANT BEING INCLUDED AND IN AGREEMENT WITH ANY MAJOR DECISIONS INVOLVED IN THE CHILDREN'S LIVES.

ANY EVIDENCE OF THE PLAINTIFF BYPASSING THE DEFENDANT'S AGREEMENT IN ANY MAJOR DECISIONS SHOULD BE SUBJECT TO APPROPRIATE SANCTIONS BY THE COURT.

THE PLAINTIFF SHALL SEE TO DEFENDANT HAVING INFORMATION NECESSARY TO ACCESS THE SCHOOLS, PHYSICIANS AND ANY THIRD PARTY PROFESSIONALS WORKING WITH THE CHILDREN.

3. THE DEFENDANT SHALL INTERACT IN A PROFESSIONAL MANNER WITH THOSE INDIVIDUALS WORKING WITH THE MINOR CHILDREN. HE SHALL NOT THREATEN, VIDEO OR AUDIO TAPE, OR SPEAK DISRESPECTFULLY TO THE INDIVIDUALS (TEACHERS, COACHES, THERAPISTS, PHYSICIANS) WHO MAY BE INVOLVED AT ANY JUNCTURE IN THE CHILDREN'S LIVES. IF EVIDENCE EXISTS OF ONGOING DIFFICULT INTERACTION WITH INVOLVED PROFESSIONALS AND/OR THE CHILDREN'S NEEDS BEING COMPROMISED BECAUSE OF HIS LACK OF COOPERATION, REVOCATION OF HIS JOINT LEGAL CUSTODY PRIVILEGES MAY BE CONSIDERED IN THE FUTURE.

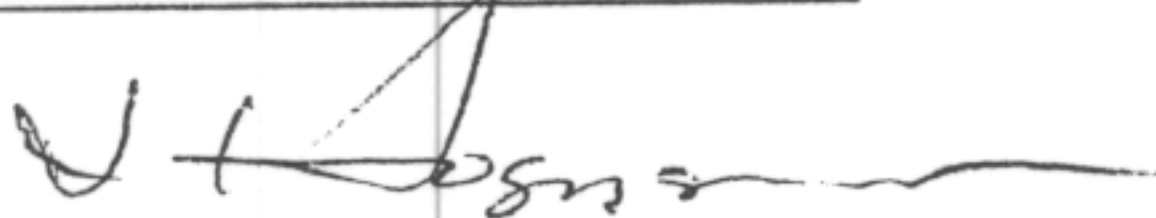
THE DEFENDANT SHALL SEE TO PLAINTIFF HAVING INFORMATION NECESSARY TO ANY RELEVANT PROFESSIONALS INVOLVED WITH THE CHILDREN DURING HIS PARENTING TIME PERIODS, AS WELL. HE SHALL, AS WELL INCLUDE HER IN AND REACH AGREEMENT UPON, ANY MAJOR DECISIONS NECESSARY DURING HIS PARENTING TIME PERIODS.

4. THE COURT'S PRIOR ORDER ALLOWING THE MINOR CHILD, ROCCO'S PHYSICIAN(S) TO PRESCRIBE MEDICATIONS FOR ADHD, AND FOR THIS CHILD TO TAKE THESE MEDICATIONS SHALL REMAIN IN FULL FORCE AND EFFECT.

BOTH PARTIES SHALL SEE TO GIVING THE CHILDREN ANY/ALL MEDICATION PRESCRIBED BY THEIR TREATING PHYSICIAN.

IN EITHER PARENT'S ABSENCE AT AN AGREED UPON MAJOR MEDICAL APPOINTMENT/PROCEDURE, THE ABSENT PARENT SHALL PROVIDE THE OTHER PARENT WRITTEN DOCUMENTATION FOR THE TREATING PHYSICIANS, FOR PURPOSES OF AGREEING UPON A COURSE OF TREATMENT IN THEIR ABSENCE.

RESPECTFULLY SUBMITTED,



JILL HOGENSON, LMSW, ACSW, CUSTODY SPECIALIST

6/3/2015